

The Court, having considered the evidence and Plaintiffs' Evidentiary Objections to Defendants' Evidence and Declarations Submitted in Opposition to Plaintiffs' Second Renewed Motion for Class Certification, hereby rules as follows:

Declaration of Altagracia Lopez-Arrelano (Dkt. 252-3)	Objection	Ruling
<p>I, Altagracia Lopez-Arellano, declare as follows:</p> <p>1. I have personal knowledge of the facts set forth in this declaration and, if called as a witness, I could and would testify competently about these facts.</p> <p>2. I am a teacher at Haydock Academy of Arts and Sciences ("Haydock") in the Oxnard School District ("OSD" or the "District), where I teach Math. I have worked in this position for the last fourteen (14) years but have worked as an educator, either in a teaching or administrative capacity, for a total of twenty (20) years.</p> <p>3. I have a Multiple Subject Teaching credential and a Supplemental Credential in Math with the State of California. As part of the Multiple Subject credentialing program I completed, I attended courses</p>		

1 related to Special Education.
2 Additionally, I received training
3 from the District's Special
4 Education Department regarding
5 Child Find on February 20, 2018.
6 Throughout my career as an
7 educator, I have interacted with
8 and taught numerous students
9 with IEPs.

10 4. I have also attended
11 professional development
12 meetings and trainings which
13 have dealt with identifying
14 students with disabilities and
15 special needs. I understand that if
16 I suspect that a student has a
17 disability, it is my duty to refer
18 the student for special education
19 assessment.

20 5. Student A.E. is currently a
21 student in my math class. As his
22 math teacher, I have observed
23 and monitored A.E.'s academics,
24 behavior, and social/peer
25 relations.

26 6. When A.E. first began in my
27 class in January 2019, he did
28 struggle academically and had
difficulty finishing assignments.
However, I did not suspect that
A.E. had a disability. I was
aware that A.E. had spent the
prior year in Mexico.
Additionally, I did not have any
information regarding his prior
academic performance.
Therefore, I concluded that his

1 academic struggles were a result
2 of his difficulties transitioning to
3 Haydock after living in Mexico.
4 In order to allow A.E. to
5 transition smoothly, I provided
6 him with additional time to
7 complete his assignments.

8 7. On March 4, 2019, A.E.
9 completed one of the four
10 progress tests that I give my
11 students each year. A.E. missed
12 the first two tests given during
13 Fall 2018 because he was not
14 attending Haydock at the time.
15 Given that A.E. only joined
16 Haydock in January, A.E. scored
17 better than expected on this test.
18 His score was only one grade
19 below his current grade level,
20 which indicated to me that A.E.
21 was able to understand grade
22 level math concepts and capable
23 of doing his work. A.E.
24 continues to improve
25 academically in my class and his
26 current grade is a "B".

27 8. I have never had any behavior
28 concerns regarding A.E. He is
well-behaved and polite.

9. I first met A.E.'s mother, T.L.,
during Parent-Teacher
conferences in early February.
T.L. said she had come to meet
with me because she was
concerned about A.E. 's progress.
**[Objection 1: I explained to her
that at the time A.E. did not**

1. Plaintiffs object on the basis
that the witness lacks personal

Overruled

1	have a good grade because he was not completing his assignments. I recommended to T.L. that A.E. seek additional help from his academic counselor who could work with him to ensure that he completed his assignments. I explained that A.E. needed more time to transition at Haydock. I also recommended to T.L. that A.E. get tested for glasses because he struggled with seeing the board in class.]	knowledge and foundation to the extent this testimony is being used to assert the understanding of T.L. F.R.E. 602. Also, improper opinion testimony. FRE 701, 702. Furthermore, the testimony is hearsay. FRE 801.	
11	10. [Objection 2: I understand that T.L. has represented that, at some point, I allegedly advised her to get A.E. evaluated for special education services. I also understand that T.L. claims that I told her not to tell the Haydock administrators that I suggested that A.E. get evaluated. These claims by T.L. are not true. I at no point advised T.L. that she should request a special education evaluation for A.E. And I certainly never told her not to mention that I provided this alleged advice.]	2. Plaintiffs object on the basis that the witness lacks personal knowledge and foundation to the extent this testimony is being used to assert the understanding of T.L. F.R.E. 602. Furthermore, this testimony is all hearsay. FRE 801.	Overruled
24	11. I interacted with T.L. again on February 26, 2019 when she came to observe A.E. in my classroom. We discussed A.E. 's progress. [Objection 3: I offered afterschool tutoring for	3. Plaintiffs object on the basis that the witness lacks personal knowledge and foundation to	Overruled

26 A.E., but T.L. declined and explained that A.E. could receive help at home. I also reminded T.L. to get A.E. tested for glasses. However, I did not tell T.L. that she should request a special education evaluation for A.E. as I did not suspect A.E. to have a disability or to otherwise need special education services.]

12. I have never contacted T.L. via telephone to discuss A.E.'s performance in my class.

13. [Objection 4: Based on A.E.'s classroom performance and my observation as a teacher, I do not suspect that A.E. has a disability, nor have I noticed any "red flags" that indicate A.E. has special needs. My experience is that A.E. is well behaved, is able to participate in normal peer social interactions, expresses himself well verbally and in writing, and is academically capable.]

14. Based on A.E. 's classroom performance and my observation as his teacher, I do not suspect that A.E. has a disability, nor have I noticed any "red flags" that indicate that A.E. has special needs. My experience is that A.E. is well behaved, is able to

the extent this testimony is being used to assert the understanding of T.L. F.R.E. 602. Furthermore, this testimony is hearsay. F.R.E. 801. Also improper opinion testimony. Declarant has not been qualified as an expert in disability assessments or determinations. F.R.E.602, 701, 702.

4. Plaintiffs object on the basis that this testimony is improper opinion testimony. The witness has not provided sufficient foundation for the opinion offered. She has not been qualified as an expert in disability assessments or what constitute "red flags" for disability, clinically or legally. F.R.E. 602, 701, 702.

Overruled

participate in normal peer social interactions, expresses himself well verbally and in writing, and is academically capable .

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 16th day of May 2019, in Oxnard, California.

**Declaration of Carol Flores Beck
(Dkt. 252-4)**

I, Carol Flores Beck, declare as follows:

1. I have personal knowledge of the facts set forth in this declaration and, if called as a witness, I could and would testify competently about these facts.

2. I am the Principal at Drifill Elementary School (“Drifill”) in the Oxnard School District (“OSD” or the “District”) and have been in this position for nine (9) years, five (5) of which have included K-8. As Principal, I am responsible for, among other things, the operations of the school site in furtherance of the education, health, and safety

Objection

Ruling

1 of students. Prior to my current
 2 position, I worked as an
 3 administrator for about 20 years
 4 and held positions as Principal,
 5 Director, Assistant Principal, and
 6 Dean. Of my years as an
 7 administrator, 11 years involved
 8 the middle school age group.
 9 Before becoming an
 10 administrator, I was a teacher for
 11 about eight (8) years, including
 12 two years as a 7th and 8th grade
 13 teacher.

14 3. I have Single Subject
 15 Teaching credentials in Physical
 16 Education and Spanish, a
 17 Multiple Subject credential for
 18 K-12, and an Administrative
 19 credential with the State of
 20 California. I participated in
 21 courses related to Special
 22 Education in undergraduate and
 23 graduate school. I have also
 24 attended professional
 25 development meetings and other
 26 trainings, including the District's
 27 February 20, 2018 "Child Find"
 28 Training, which have dealt with
 identifying students with
 disabilities and special needs.
 In addition, throughout my
 career as an educator, I have
 interacted with numerous
 students with IEPs.

4. D.C. transferred to Driffill
 from Fremont Academy during
 the current 2018-2019 school
 year. **[Objection 1: I know that**

1. Plaintiffs object on the basis

Sustained

1	D.C. was suspended from Fremont Academy prior to joining our school. D.C.'s transfer was initiated by Parent and involved an administrative placement. Typically, the procedure for this type of transfer is that the parent will request a transfer from the District and the Director of Pupil Services, Mr. Chris Ridge, and his staff will coordinate the transfer if such request is authorized.] Drifill provides a smaller environment at the middle school grades 6-8) level.	that this testimony lacks foundation and personal knowledge. Based on speculation. F.R.E. 601, 602. Hearsay F.R.E. 801.	
13	5. [Objection 2: While at Drifill, D.C. has demonstrated some defiant behavior, but overall D.C. is an average student that does not exhibit behavior that is atypical for her age group. I do not suspect that D.C. has or may have a disability.]	2. Plaintiffs object on the basis that this testimony lacks foundation. FRE 601. Improper opinion testimony. FRE 701, 702. Declarant has not been qualified as an expert in typical behavior for children of D.C.'s age group, not is she an expert on disability-related behavior or qualifying disabilities.	Overruled
21	6. [Objection 3: I understand that D.C.'s mother asserts that she sent a fax request for an assessment in November of 2018. I have no knowledge of such request. I have never seen or received a fax request for D.C. to be assessed for disability. Usually, when a fax is sent outside of school hours, the sender will follow-up	3. Plaintiffs object on the basis that this testimony lacks foundation. Witness has established no basis to testify regarding the fax procedures at the school, or what parents "usually" do. Improper speculation. FRE 601, 602. Hearsay F.R.E. 801.	Overruled

1 **telephonically to confirm**
2 **whether the fax was received. I**
3 **am not aware of any**
4 **communication from D.C.'s**
5 **Parent, or anyone, concerning**
6 **a fax request for D.C. to be**
7 **assessed.]**

8 I declare under penalty of perjury
9 under the laws of the United
10 States that the foregoing is true
11 and correct.

12 Executed this 16th day of May
13 2019, in Oxnard, California.

14 **Declaration of Carlen Handley**
15 **(Dkt. 252-5)**

16 **Objection**

17 **Ruling**

18 I, Carlen Handley, declare as
19 follows:

20 1. I have personal knowledge of
21 the facts set forth in this
22 declaration and, if called as a
23 witness, I could and would
24 testify competently about these
25 facts.

26 2. I am a teacher at Haydock
27 Academy of Arts and Sciences
28 ("Haydock") in the Oxnard
School District ("OSD" or the
"District), where I teach science.
I have worked in this position for
the last two (2) years.

3. I have a Single Subject
Teaching Credential in Science

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	<p>with the State of California. As part of the credentialing program I completed, I attended courses related to Special Education. Additionally, I received training from the District's Special Education Department regarding Child Find on February 20, 2018. Throughout my career as an educator, I have interacted with and taught numerous students with IEPs.</p> <p>4. I understand that if I suspect that a student has a disability, it is my duty to refer the student for special education assessment.</p> <p>5. Student A.E. is currently a student in my science class and advisory class. As his teacher, I have observed and monitored A.E.'s academics, behavior, and social/peer relations.</p> <p>6. [Objection 1: When A.E. first joined my classes in January 2019 he rarely completed his assignments and often misbehaved in class. However, after reading A.E.'s entries in his journal I realized that A.E. is very capable of doing the work. His journal work is very focused, written with elaborate stories and complete sentences. A.E. 's ability to communicate and write is far above many of his classmates, but he does not</p>	<p>1. Plaintiffs object on the basis that this testimony lacks foundation. FRE 601. Improper opinion testimony. FRE 701, 702. Declarant has not been qualified as an expert in typical behavior or the typical communication abilities for children of A.E.'s age group; she an expert on disability-related behavior or qualifying disabilities. Hearsay F.R.E. 801.</p>	<p>Overruled</p>
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1	show this ability in his coursework.]		
2			
3	7. [Objection 2: At the second	2. Improper opinion testimony.	Overruled
4	trimester progress report, A.E.	Declarant has not been qualified	
5	had an "F" in science.	as an expert with respect to how	
6	Therefore, I had a Parent-	A.E. is capable of performing.	
7	Teacher conference with A.E.	F.R.E. 602, 701, 701. Lacks	
8	's mother, T.L, during the first	foundation. Based on	
9	week of February to discuss	speculation. Hearsay. F.R.E.	
10	A.E.'s academic struggles and	801.	
11	behavior. I explained to her,		
12	that I believed that A.E. is		
13	capable of performing well if		
14	he puts in the effort and		
15	behaves in class. I		
16	recommended that A.E. come		
17	to my afterschool tutoring		
18	program so that I could		
19	provide him with additional		
20	assistance. T.L. agreed to send		
21	A.E. to afterschool tutoring.		
22	However, A.E. has yet to		
23	attend afterschool tutoring.]		
24			
25	8. [Objection 3: On February	3. Hearsay. F.R.E. 801. Lacks	Overruled
26	26, 2019, T.L. came to A.E.'s	personal knowledge and	
27	science and advisory class to	foundation to state that A.E.	
28	observe him. T.L. explained	"has never been bullied by other	
	that she believed that A.E. was	students." F.R.E. 602	
	being bullied. To my		
	knowledge, A.E. has never		
	been bullied by other students.]		
	9. As the school year has		
	progressed, I have seen an		
	improvement in A.E.'s work. He		
	currently has a "B" in science.		

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	<p>10. I have never called T.L. via phone to discuss A.E. 's grades and progress in his science or advisory class.</p> <p>11. [Objection 4: Based on A.E.'s classroom performance and my observation as his teacher, I do not suspect that A.E. has a disability, nor have I noticed any "red flags" that indicate that A.E. has special needs. My experience is that A.E. is capable to perform at grade level but his failure to complete assignments timely is affecting his grades. His exemplary journal work indicates that he can perform academically well. Additionally, his behavior concerns are not out of the ordinary for a typical junior-high student and do not rise to a level that I suspect A.E. has a disability.]</p> <p>12. [Objection 5: I have never told T.L. that she should request a special education evaluation for A.E. because I do not suspect A.E. to have a disability or to otherwise need special education services.]</p> <p>I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.</p>	<p>4. Improper opinion testimony. Declarant has not been qualified as an expert in disability assessments, determinations or requirements, or what constitutes a "red flag" for disability, clinically or legally. Declarant has also laid an insufficient foundation and has not qualified to offer an opinion regarding what is "ordinary for a typical high school student." F.R.E. 602, 701, 702</p> <p>5. Improper opinion testimony. Declarant has not been qualified as an expert in disability assessments, determinations or requirements, clinically or legally. Insufficient foundation for the opinion offered. F.R.E. 602, 701, 702. Hearsay. F.R.E. 801.</p>	<p>Overruled</p> <p>Overruled</p>
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1 Executed this 16th day of May
2 2019, in Oxnard, California.

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4 **Declaration of Elizabeth**
5 **Montoya**
6 **(Dkt. 252-6)**

7
8 **Objection**

9 **Ruling**

10 I, Elizabeth Montoya, declare as
11 follows:

12 1. I have personal knowledge of
13 the facts set forth in this
14 declaration and, if called as a
15 witness, I could and would
16 testify competently about these
17 facts.

18 2. I am a teacher at Haydock
19 Academy of Arts and Sciences
20 ("Haydock") in the Oxnard
21 School District ("OSD" or the
22 "District), where I teach general
23 education social studies. I have
24 worked in this position for the
25 last school year but have worked
26 as an educator for a total of
27 eighteen (18) years.

28 3. I have a Single Subject
Credential in Social Studies with
the State of California. As part of
my teaching credential program I
attended courses related to
Special Education. Additionally,
I received training from the
District's Special Education
Department regarding Child
Find. Throughout my career as
an educator, I have interacted

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	<p>with and taught numerous students with IEPs.</p> <p>4. I understand that if I suspect that a student has a disability, it is my duty to refer the student for special education assessment.</p> <p>5. Student A.E. is currently a student in my social studies class. As his teacher, I have observed and monitored A.E. 's academics, behavior, and social/peer relations.</p> <p>6. When A.E. first joined my class in January 2019 he rarely completed his assignments.</p> <p>[Objection 1: When I worked individually with A.E., I realized that he is capable of performing and completing his work. However, I believe that he lacks the confidence in his skills and is often unmotivated.] At the end of the second trimester, A.E. had a “C+” in my class.</p> <p>7. A.E. is very polite and respectful. I have not had any behavior concerns with A.E.</p> <p>8. [Objection 2: I have called A.E.’s mother, T.L., about four (4) times to discuss A.E.’s progress and my concerns regarding his lack of turning in assignments. However, T.L. never answered the phone</p>	<p>1. Improper opinion testimony. Declarant has not been qualified as an expert in child psychology or disability assessment determinations or requirements. Insufficient foundation for the opinion offered. F.R.E. 602, 701, 702</p> <p>2. Hearsay. F.R.E. 801.</p>	<p>Overruled</p> <p>Overruled</p>
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1	calls. T.L. never returned my calls.]		
2			
3	9. I first met T.L. during Parent-		
4	Teacher conferences in early		
5	February. I explained to T .L.		
6	that A.E. could raise his grade by		
7	bringing in his required binder.		
8	The next day, A.E. came with the		
9	necessary binder. I also		
10	explained to T.L. how to access		
11	the Parent Portal so that she		
12	could keep track of A.E. 's		
13	assignments and progress.		
14			
15	10. A.E. currently has a "C-" in		
16	my class. However, this is only		
17	due to his failure to complete		
18	five (5) assignments. A. E. has		
19	received a 100% on every other		
20	7 assignment.		
21			
22	11. [Objection 3: I have never	3. Improper opinion testimony.	Overruled
23	told T.L. that she should	Declarant has not been qualified	
24	request a special education	as an expert in disability	
25	evaluation for A.E. because I	assessments, determinations or	
26	do not suspect A.E. to have a	requirements, clinically or	
27	disability or to otherwise need	legally. Insufficient foundation	
28	special education services.]	for the opinion offered. F.R.E.	
		602, 701, 702. Hearsay. F.R.E.	
		801.	
	12. [Objection 4: Based on	4. Improper opinion testimony.	Overruled
	A.E.'s classroom performance	Declarant has not been qualified	
	and my observation as his	as an expert in disability	
	teacher, I do not suspect that	assessments, determinations or	
	A.E. has a disability, nor have I	requirements, or what	
	noticed any "red flags" that	constitutes a "red flag" for	
	indicate that A.E. has special	disability, clinically or legally.	
	needs. My experience is that	Declarant has also laid an	

1 **A.E. is capable to perform at**
2 **grade level but his failure to**
3 **complete assignments is**
4 **affecting his grades. A.E. is**
5 **able to understand the**
6 **classroom content and is able**
7 **to participate in class**
8 **discussions with appropriate**
9 **academic vocabulary.**
10 **Additionally, he has no**
11 **behavior issues.]**

insufficient foundation for the
opinion offered. F.R.E. 602,
701, 702

9 I declare under penalty of perjury
10 under the laws of the United
11 States that the foregoing is true
12 and correct.

13 Executed this 16th day of May
14 2019, in Oxnard, California.

15 **Declaration of Gilbert**
16 **Elizarraraz**
17 **(Dkt. 252-7)**

Objection

Ruling

18 I, Gilbert Elizarraraz, declare as
19 follows:

20 1. I have personal knowledge of
21 the facts set forth in this
22 declaration and, if called as a
23 witness, I could and would
24 testify competently about these
25 facts.

26 2. I am an Assistant Principal at
27 Driffill Elementary School
28 (“Driffill”) in the Oxnard School
District (“OSD” or the “District”).
I have been in this position for
four (4) years. As an Assistant

1 2 3 4 5 6 7 8	Principal, I am responsible for, among other things, student discipline. Prior to my current position, I worked as a high school level English Language and Migrant Program Coordinator for about ten (10) years in Santa Paula. I also worked as a physical education teacher in Glendale.		
9 10 11 12 13 14 15 16 17 18 19 20	3. I have a Single Subject (Physical Education) Teaching credential and an Administrative credential with the State of California. I have attended courses, professional development meetings, and other trainings, including the District's February 20, 2018 "Child Find" Training, which have dealt with identifying students with disabilities and special needs. In my more than 20 years as an educator, I have interacted with numerous students with IEPs.		
21 22 23 24 25 26 27 28	4. [Objection 1: Based on my observations and interactions with D.C., she is very smart and full of potential for academic success. She is articulate and is very capable both intellectually and analytically. D.C. is able to defend herself and communicate her boundaries well. However, D.C. has also	1. Plaintiffs object that this is improper opinion testimony. Declarant has not been qualified as an expert in disability assessments, determinations or requirements, clinically or legally. Declarant has also laid an insufficient foundation and has not qualified to offer an opinion regarding what behavior is "atypical for her age	Overruled

1 **demonstrated defiant behavior**
2 **and was suspended once for**
3 **inappropriate behavior toward**
4 **Principal Carol Flores-Beck.**
5 **Since the Fall of 2018 to the**
6 **present, D.C. has been under a**
7 **Behavior Contract. The**
8 **Behavior Contract requires**
9 **D.C. to obtain comment and**
10 **signature from all of her**
11 **teachers on a regular basis**
12 **about her behavior. I was**
13 **personally involved in the**
14 **process of placing D.C. on the**
15 **Behavior Contract and have**
16 **noted that D.C.'s was able to**
17 **sustain good behavior for an**
18 **extended period of time.**
19 **Despite D.C.'s disciplinary**
20 **issues, her behavior does not**
21 **rise to a level that I would**
22 **consider atypical for her age**
23 **group and I do not suspect that**
24 **D.C. has or may have a**
25 **disability.]**

group.” F.R.E. 602, 701, 702

19 I declare under penalty of perjury
20 under the laws of the United
21 States that the foregoing is true
22 and correct.

23 Executed this 16th day of May
24 2019, in Oxnard, California.

25 **Declaration of Genaro Magana**
26 **(Dkt. 252-8)**

Objection

Ruling

27 I, Genaro Magana, declare as
28 follows:

1 1. I have personal knowledge of
2 the facts set forth in this
3 declaration and, if
4 called as a witness, I could and
5 would testify competently about
6 these facts.

7 2. I am an Assistant Principal at
8 Haydock Academy of Arts and
9 Sciences ("Haydock") in the
10 Oxnard School District ("OSD"
11 or the "District). In my capacity
12 as Assistant Principal, I respond
13 to parent concerns and
14 specifically work with students
15 whose last names begin with "A"
16 through "L". I am responsible for
17 conferring with students, and
18 their parents, who exhibit severe
19 academic, social, or emotional
20 problems that adversely affect
21 optimum educational
22 development.

23 3. I received my Master's of Arts
24 degree in Educational Leadership
25 and a Master's in Education with
26 Emphasis in Teaching from
27 California Lutheran University. I
28 have a Multiple Subject
Teaching credential and an
Administrative credential with
the State of California. As part of
the Multiple Subject
credentialing program and the
Administrative credentialing
programs I completed, I attended
courses related to Special

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	<p>Education. I have also attended professional development meetings and other trainings which have dealt with identifying students with disabilities and special needs. Throughout my career as an educator, I have interacted with numerous students with IEPs. I served as the Local Educational Agency Representative in IEP meetings held for all students whose last names begin with “A” through “L”</p> <p>4. Student A.E. enrolled at Haydock in January 2019. The year prior to attending Haydock, A.E. was living in Mexico where he did not attend school.</p> <p>5. I first met A.E.’s mother, T.L., in early February when she came to meet with me to discuss her belief that A.E. was being bullied by other students. I assured T.L., that to my knowledge, A.E. was not being bullied and I would ensure that he was not bullied. [Objection 1: T.L. also expressed concerns regarding A.E.’s academic progress. I explained to T.L., that his academic struggles were likely a result of him missing a whole year of school. Given that he had only been at Haydock for less than one month at this point his low</p>		
		<p>1. Plaintiff objects that this statement is hearsay regarding what T.L. expressed. F.R.E. 801. Improper opinion testimony. Declarant has not been qualified as an expert with regard to what is a disability or why a child may be struggling academically. Insufficient foundation for the opinion testimony offered.</p>	<p>Overruled</p>

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	<p>grades were not unexpected. At no point during this conversation, did T.L. make an oral request for a special education assessment or evaluation of A.E.]</p> <p>6. [Objection 2: I understand that T.L. claims that on February 14, 2019 or February 15, 2019 she made an oral request for a special education evaluation of A.E. and that she claims that I told her to wait until after a holiday weekend to address this. These claims by T.L. are not true.] I did not interact with T.L. on February 14, 2019 or February 15, 2019. At no point have I received an oral request for a special education assessment of A.E.</p> <p>7. When a parent enters the office to speak with the Principal or with me, it is the pattern and practice of our office to first have a parent sign in on our visitor log. Our office has this requirement to ensure the safety of students and staff on campus. School staff need to be aware of who is on campus at all times. Attached as exhibit A to this declaration is a true and correct copy of the Haydock Elementary School visitor logs for the week of February 11-15, 2019. T.L.'s name does not appear as an entry in these visitor logs.</p>	<p>F.R.E. 602, 701, 702.</p> <p>2. Plaintiff object that this statement constitutes hearsay. F.R.E. 801. Lack of foundation. Lack of personal knowledge to assert T.L.'s understanding. F.R.E 602.</p>	<p>Overruled</p>
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<p>8. The next time I interacted with T.L. was on February 22, 2019 in regard to a discipline incident that A.E., along with other students, was involved in. Specifically, cellphone videos of students fighting were found. [Objection 3: A.E. was one of the students seen fighting in these videos. I reassured T.L. that I take concerns regarding bullying very seriously and would ensure that A.E. was not bullied.] At this meeting, T.L. also presented me with a written request for a special education assessment of A.E. While T.L. was still present, I immediately notified the school psychologist, Ms. Tiffany Grande (“Ms. Grande”) of the request via telephone. After the meeting with T.L., I placed the written request for a special education assessment in Ms. Grande’s mailbox.</p> <p>9. On March 6, 2019, a meeting was held to respond to T.L.’s written request for a special education assessment. The purpose of this meeting was to discuss T.L.’s assessment request. T.L., Mr. Jose Negrete who is a family friend, Ms. Grande, the school counselor, and I were all in attendance at the meeting. I provided T.L. an English copy of the Parent</p>	<p>3. Plaintiffs object on the basis that this statement is Hearsay. F.R.E. 801. Lack of foundation; speculation that A.E. was “seen fighting in these videos.” F.R.E. 602</p>	<p>Sustained in part. Strike <“A.E. was one of the students seen fighting in these videos.”></p>
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1	Safeguards and Procedural Rights at the start of the meeting.		
2	Attached as exhibit B to this		
3	declaration is a true and correct		
4	copy of the Parent Safeguards		
5	and Procedural Rights that was		
6	provided to T.L. Since T.L. is		
7	fluent in English, the meeting		
8	was held in English.		
9			
10	10. At the meeting we reviewed		
11	the teacher input that was		
12	gathered from A.E.'s teachers		
13	prior to the meeting regarding his		
14	grades and behavior. [Objection	4. Plaintiffs object that this	Overruled
15	4: Due to the fact that A.E. had	constitutes improper opinion	
16	only recently joined Haydock	testimony. Declarant has not	
17	in January, I did not believe	been qualified as an expert in	
18	there was enough data to	disability assessment	
19	warrant a special education	determinations or requirements,	
20	assessment.] However, I	clinically or legally, including	
21	understood that as a parent, T.L.	how much data warrants an	
22	had a right to request a special	assessment. He has offered a	
23	education assessment of her	sufficient foundation for the	
24	child.	opinion testimony offered.	
25		F.R.E. 602, 701, 702	
26			
27	11. [Objection 5: At the March	5. Plaintiffs object that T.L.'s	Sustained
28	6, 2019 meeting, the school	statement is hearsay. F.R.E.	
	psychologist asked T.L.	801. Lacks personal knowledge	
	whether she would like to	and foundation to the extent this	
	proceed with the special	testimony is being used to assert	
	education assessment of A.E.	the understanding of T.L.	
	T.L. replied "that's fine, we	F.R.E. 602	
	can wait on the assessment."]		
	12. [Objection 6: In my	6. Plaintiffs object because	Sustained
	opinion, T.L understood that	declarant lacks personal	
	she had a right to proceed with	knowledge and foundation to	
	the special education	the extent this testimony is	

assessment and did not have to wait. In my opinion, T.L. was in agreement at the time there was not enough data to warrant a special education assessment of A.E.]

13. [Objection 7: Based on my observation of A.E., his academic grades, and lack of serious behavior concerns I do not suspect that A.E. has a disability, nor have I noticed any “red flags” that indicate that A.E. has special needs.]

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 16th day of May 2019, in Oxnard, California.

being used to assert the understanding of T.L.
F.R.E. 602

7. Plaintiffs object on the basis that this testimony is improper opinion testimony. The witness has not provided sufficient foundation for the opinion offered. She has not been qualified as an expert in disability assessments or what constitute “red flags” for disability, clinically or legally. F.R.E. 602, 701, 702.

Overruled

Declaration of Katrina Madden (Dkt. 252-9)	Objection	Ruling
<p>I, Katrina Madden, declare as follows:</p> <p>1. I have personal knowledge of the facts set forth in this declaration and, if called as a witness, I could and would testify competently about these facts.</p>		

1 2. I am the current Interim
2 Director of Special Education at
3 the Oxnard School District
4 ("OSD" or "District"). I have
5 served in this capacity for
6 approximately one month, since
7 the beginning of April 2019.
8 Prior to becoming the Interim
9 Director of Special Education at
10 OSD, I was a Special Education
11 Manager from August 2017 to
12 March 2019.

13 3. As the Interim Director of
14 Special Education at OSD, my
15 job duties include providing
16 oversight of the delivery of
17 special education services to
18 students in the Oxnard School
19 District as provided by the
20 IDEA, including reviewing
21 current needs that may require
22 additional resource development,
23 maintaining lip to date
24 information on the current law
25 and best practices for our
26 programs, serving as the district
27 representative at our Special
28 Education Local Plan Area
(SELP A), and compelling
information for State and Federal
reporting purposes.

4. In my capacity as Interim
Director of Special Education, I
have access to the most recent
data related to total student
enrollment within the Oxnard
School District as well as total
student enrollment in special

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	education within the Oxnard School District. The District tracks its special education student enrollment through its SIRAS system. SIRAS is a comprehensive web-based special education management system that manages OSD's IEP documents, special education caseloads, and interfaces with the California Department of Education's ("CDE") CASEMIS State Reporting System. The CDE's California Special Education Management Information System (CASEMIS) is a data reporting and retrieval system developed by the CDE's Special Education Division. https://www.cde.ca.gov/sp/se/ds/ (last visited May 16, 2019.)	
16 17 18 19 20 21 22 23 24 25 26 27 28	5. In preparing to submit this declaration, I reviewed data sets of OSD special education student enrollment for 2016, 2017, and 2018. [Objection 1: Attached hereto as Exhibit A are true and correct copies of OSD SIRAS statistical reports of student referrals and special education for the years 2016-2018.] The X axis of the tables indicates the number of students in each instructional setting. The Y axis of the tables indicates the source of student referrals and the number of students referred from each source.	1. Plaintiffs object to the reports attached as Exhibit A as hearsay pursuant to F.R.E. 801. Defendants also did not produce this information in litigation and it is not publicly available. This testimony also lacks foundation in that there is no explanation regarding how this data is obtained, maintained or produced, other than a blanket statement about the nature of the recordkeeping system. FRE 601.
		Overruled

1 **6. [Objection 2: The graphs**
2 **attached as Exhibit A to this**
3 **declaration indicate that the**
4 **District increased its student**
5 **enrollment in special education**
6 **by about 401 students since**
7 **2016. On December 1, 2016,**
8 **there were approximately**
9 **1688¹ students enrolled in**
10 **special education programs**
11 **within the District. By**
12 **December 1, 2018, the number**
13 **of students enrolled in special**
14 **education programs increased**
15 **to 2,083.]**

2. Plaintiffs object to the graphs included in Exhibit A as hearsay pursuant to F.R.E. 801. Defendants did not produce this information in litigation and it is not publicly available. This testimony also lacks foundation in that there is no explanation regarding how this data is obtained, maintained or produced, other than a blanket statement about the nature of the recordkeeping system. Further, Exhibit A does not contain the enrollment numbers referenced in Paragraph 6. FRE 601. Improper opinion testimony. FRE 701, 702. Declarant has not been qualified as an expert in statistics.

Overruled

16 **7. [Objection 3: The graphs**
17 **also show the sources of**
18 **referral for OSD students in**
19 **special education programs. In**
20 **2016, 498 of the student[s]**
21 **enrolled in special education**
22 **programs were found assessed,**
23 **and provided special education**
24 **services due to**
25 **recommendations by an SST**
26 **team. In 2018, this number**
27 **rose to 734 students.]**

3. Plaintiffs object to the graphs included in Exhibit A as hearsay pursuant to F.R.E. 801. Defendants did not produce this information and it is not publicly available. This testimony also lacks foundation in that there is no explanation regarding how this data is obtained, maintained or produced, other than a blanket statement about the nature of the recordkeeping system. FRE 601. Improper opinion testimony. FRE 701, 702. Declarant has not been qualified as an expert in statistics.

Overruled

1	8. [Objection 4: The graphs also show that OSD students are found, assessed, and provided special education services as a result of referrals that come from sources other than SSTs or parent referrals. In other words, OSD often bypasses the SST process and moves toward assessments when district staff suspect or know that a student requires special education services. In 2018, 277 students enrolled in special education programs were found and assessed as a result of direct teacher referrals, referrals by other district personnel, or by other non-SST non-parent referrals.]	4. Plaintiffs object to the graphs included in Exhibit A as hearsay pursuant to F.R.E. 801. Defendants did not produce this information and it is not publicly available. This testimony also lacks foundation in that there is no explanation regarding how this data is obtained, maintained or produced, other than a blanket statement about the nature of the recordkeeping system. Moreover, the data referenced does not support the assertion Ms. Madden makes regarding that OSD often bypasses the SST system. Further, Ms. Madden does not explain that her numbers are cumulative, i.e. the result of numbers of referrals over the course of years, and improperly suggests that the 277 referrals all occurred in the course of a single year. FRE 601. Improper opinion testimony. FRE 701, 702. Declarant has not been qualified as an expert in statistics.	Overruled
22	9. In my capacity as Interim Director of Special Education, I have access to the most recent data related to total student enrollment within the Oxnard School District. The District's total student enrollment has decreased since the 2016-2017 school year. Specifically, student		

<p>1 enrollment decreased from</p> <p>2 17,485 in 2016-2017 to 16,185</p> <p>3 students in 2018-2019.</p> <p>4 Concurrently, the enrollment of</p> <p>5 students in special education</p> <p>6 programs has increased.</p> <p>7 [Objection 5: As of May 14,</p> <p>8 2019, 12.8% of the Oxnard</p> <p>9 School District's student</p> <p>10 population are receiving</p> <p>11 special education services. I</p> <p>12 reached this percentage by</p> <p>13 dividing the total number of</p> <p>14 students enrolled in special</p> <p>15 education programs in</p> <p>16 2018(2,083) by the total</p> <p>17 number of student's in District</p> <p>18 (16,185).]</p> <p>19 I declare under penalty of</p> <p>20 perjury under the laws of the</p> <p>21 United States that the foregoing</p> <p>22 is true and correct.</p> <p>23 Executed this 16th day of May</p> <p>24 2019, in Oxnard, California.</p>	<p>5. Plaintiffs object to the graphs included in Exhibit A as hearsay pursuant to F.R.E. 801. Defendants did not produce this information in litigation and it is not publicly available. This testimony also lacks foundation in that there is no explanation regarding how this data is obtained, maintained or produced, other than a blanket statement about the nature of the recordkeeping system. Exhibit A also does not contain the enrollment numbers Ms. Madden references. FRE 601. Improper opinion testimony. FRE 701, 702. Declarant has not been qualified as an expert in statistics.</p>	<p>Overruled</p>
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Declaration of Louisa Jeworski (Dkt. 252-10)	Objection	Ruling
I, Louisa Jeworski, declare as follows:		

1	1. I have personal knowledge of		
2	the facts set forth in this		
3	declaration and, if called as a		
4	witness, I could and would		
5	testify competently about these		
6	facts.		
7	2. I am a teacher at Driffill		
8	Elementary School ("Driffill") in		
9	the Oxnard School District		
10	("OSD" or the "District"), where I		
11	teach Language Arts. I have		
12	worked as a teacher for		
13	approximately ten (10) years,		
14	including five (5) years at the		
15	middle school grade-level.		
16	3. I have a Single Subject		
17	(English) Teaching credential		
18	with the State of California. I		
19	also attended a District "Child		
20	Find" training on February 20,		
21	2018, which dealt with		
22	identifying students with		
23	disabilities and special needs.		
24	Throughout my career as an		
25	educator, I have interacted with		
26	and taught numerous students		
27	with IEPs.		
28	4. [Objection 1: Student D.C. is	1. Plaintiffs object that the	Overruled
	currently a student in my	testimony regarding D.C.'s	
	Language Arts Class. D.C. is	intelligence and academic	
	intelligent and academically	capability is improper opinion	
	capable. She currently has a	testimony. Declarant is not a	
	"C+" grade; however, I expect	clinician and has not provided	
	D.C.'s grade to improve before	sufficient evidence or	
	the end of the school year given	foundation for expert testimony	
	D.C. 's excellent performance	regarding intelligence or	
	on a recent exam (vocabulary	academic capability. FRE 601,	

1 **and reading comprehension),**
2 **in which she obtained an "A."**
3 **At times, D.C. is defiant, which**
4 **momentarily interferes with**
5 **her classroom engagement.**
6 **However, D.C. 's behavior does**
7 **not rise to a level that I would**
8 **consider atypical for her age**
9 **group. Both D.C. 's**
10 **performance and attitude have**
11 **improved over time and I do**
12 **not suspect that D.C. has or**
13 **may have a disability.]**

14 I declare under penalty of perjury
15 under the laws of the United
16 States that the foregoing is true
17 and correct.

18 Executed this 17th day of May
19 2019, in Oxnard, California.

701, 702. Declarant's
testimony regarding future
performance is speculation.
Also, declarant has not been
qualified as an expert in typical
behavior for children of D.C.'s
age group. Nor is she an expert
on disability-related behavior or
qualifying disabilities. Thus, her
opinions regarding the existence
of disability or typical behavior
are improper.

Declaration of Liliana Medrano (Dkt. 252-11)	Objection	Ruling
I, Liliana Medrano, declare as follows: 1. I have personal knowledge of the facts set forth in this declaration and, if called as a witness, I could and would testify competently about these facts. 2. I am a teacher at Driffill Elementary School ("Driffill") in the Oxnard School District ("OSD" or the "District"), where I		

1 teach Social Studies. I have
2 worked as a teacher for
3 approximately 6 years, all of
4 which have been as an 8th grade
teacher.

5 3. I have a Single Subject
6 (History/Social Studies)
7 Teaching credential with the
8 State of California. As part of the
9 credentialing program, I attended
10 courses related to Special
11 Education. I attended a District
12 "Child Find" training on
13 February 20, 2018, which dealt
14 with identifying students with
15 disabilities and special needs.
Throughout my career as an
educator, I have interacted with
and taught numerous students
with IEPs.

16 4. Student D.C. is currently a
17 student in my Social Studies
18 Class. In class, D.C. reads aloud
19 without any problem. D.C. has
20 maintained a "B" grade and
21 keeps up in a class of 30
22 students, especially since moving
23 to the front of the classroom.
24 Recently, D.C. has come to my
25 class after school 3-4 times to
26 make up missed work in order to
27 improve her grade. Before she
28 was sitting in front of the
classroom, D.C. was more
socially distracted by peers,
would start chatting, and
required redirection. On one
occasion, I had to take D.C.'s

1 telephone away and D.C. became
2 argumentative. **[Objection 1:**
3 **However, D.C. 's behavior has**
4 **improved over time and does**
5 **not rise to a level that I would**
6 **consider atypical for her age**
7 **group. I do not suspect that**
8 **D.C. has or may have**
9 **disability.]**

10 I declare under penalty of perjury
11 under the laws of the United
12 States that the foregoing is true
13 and correct.

14 Executed this 17th day of May
15 2019, in Oxnard, California.

1. Plaintiffs object that this
testimony lacks foundation.
F.R.E. 601 Improper opinion
testimony. F.R.E. 701, 702.
Declarant has not been qualified
as an expert in typical behavior
for children of DC.'s age group.
She also is not an expert on
disability-related behavior or
qualifying disabilities.

Overruled

16 **Declaration of Mariana Garcia**
17 **(Dkt. 252-12)**

18 I, Mariana Garcia, declare as
19 follows:

20 1. I have personal knowledge of
21 the facts set forth in this
22 declaration and, if called as a
23 witness, I could and would
24 testify competently about these
25 facts.

26 2. I am a teacher at Haydock
27 Academy of Arts and Sciences
28 ("Haydock") in the Oxnard
School District ("OSD" or the
"District), where I teach
language arts. I have worked in
this position for approximately
the last thirteen (13) years but

Objection

Ruling

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	<p>have worked as an educator, either in a teaching or administrative capacity, for a total of nineteen (19) years.</p> <p>3. I have a Multiple Subject Teaching credential and a Supplemental Credential in language arts with the State of California. I have received training regarding Child Find. Throughout my career as an educator, I have interacted with and taught numerous students with IEPs.</p> <p>4. I understand that if I suspect that a student has a disability, it is my duty to refer the student for special education assessment.</p> <p>5. Student A.E. is currently a student in my language arts class. As his teacher, I have observed and monitored A.E. 's academics, behavior, and social/peer relations.</p> <p>6. When A.E. first joined my classes in January 2019 he struggled to complete his assignments and would put minimal effort into his work.</p> <p>[Objection 1: I also believed that at the time he was still transitioning into the school setting, after having not received any formal schooling the year prior when he lived in Mexico.]</p>	<p>1. Plaintiffs object on the basis that this is improper opinion testimony. F.R.E. 701. Lacks foundation and personal knowledge. F.R.E. 602</p>	<p>Sustained in part. Strike <“after having not . . . in Mexico.”></p>
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1 7. However, A.E. 's English and
2 language skills are very good. He
3 is able to articulate himself
4 verbally and in writing. I began
5 having A.E. work with my co-
6 teacher so that he could get help
7 in a small group setting. By the
8 end of the second trimester, A.E.
9 had a "D-" in language arts.

10 8. I met A.E.'s mother, T.L., on
11 February 26, 2019, when she
12 came to observe A.E. in class. I
13 explained to T.L. that A.E. had a
14 poor grade because he often
15 procrastinated and did not
16 complete his work. Since this
17 interaction with T.L., A.E. has
18 begun performing much better in
19 class. He completes and turns in
20 most of his assignments on time.
21 A.E.'s current grade in language
22 arts is a "C". I am very pleased
23 with A.E.'s improvement and
24 performance in my class.

25 9. I have had zero behavior
26 issues with A.E. He is respectful
27 to me and his classmates.

28 10. To my recollection, I have
never called T.L. via phone to
discuss A.E. 's grades and
progress.

11. Based on A.E. 's classroom
performance and my observation
as his teacher, I do not suspect
that A.E. has a disability, nor

1 have I noticed any "red flags"
2 that indicate that A.E. has special
3 needs. My experience is that
4 A.E. is capable to perform at
5 grade level but his failure to
6 complete assignments timely is
7 affecting his grades. He has
8 made good progress and at the
9 present time he has only one
10 outstanding assignment.

11 12. I have never told T.L. that
12 she should request a special
13 education evaluation for A.E.
14 because I do not suspect A.E. to
15 have a disability or to otherwise
16 need special education services.

17 I declare under penalty of perjury
18 under the laws of the United
19 States that the foregoing is true
20 and correct.

21 Executed this 17th day of May
22 2019, in Oxnard, California.

23
24
25
26
27
28
**Declaration of Monica Garcia-
Napoles
(Dkt. 252-13)**

I, Monica Garcia-Napoles,
declare as follows:

1. I have personal knowledge of
the facts set forth in this
declaration and, if called as a
witness, I could and would
testify competently about these
facts.

Objection

Ruling

1 2. I am a School Counselor at
2 Haydock Academy of Arts and
3 Sciences ("Haydock") in the
4 Oxnard School District ("OSD"
5 or the "District"). In my capacity
6 as a School Counselor, I provide
7 onsite counseling services to
8 students and assist students in
9 making appropriate decisions
10 relative to his/her school
11 program and his/her relationships
12 with teachers, administrators,
13 and other pupils. I have worked
14 in this position for the last eleven
15 (11) years but have worked as
16 school counselor for a total of
17 twelve (12) years.

18 3. I received my Master's degree
19 in School Counseling from the
20 University of San Diego. I
21 completed and attended
22 professional development
23 courses related to Special
24 Education. Additionally, I
25 received training from the
26 District's Special Education
27 Department regarding Child Find
28 on February 20, 2018.

29 4. Throughout my career as a
30 counselor, I have interacted with
31 numerous students with IEPs. I
32 am well aware of the legal
33 timelines in which parental
34 requests for special education
35 assessments have to be
36 responded to.

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	<p>5. I first heard that A.E. 'smother, T.L., had requested a special education assessment of him when I was invited to attend the meeting to respond to the parental request for assessment.</p> <p>6. Additionally, in preparation for the meeting, I gathered input from A.E.'s teachers so that the District could appropriately respond to T.L.'s request.</p> <p>7. A meeting was held on March 06, 2019, well within the fifteen (15) day legal deadline by which the District had to respond to the request.</p> <p>8. Assistant Principal General Magana ("Mr. Magana"), Ms. Grande, T.L., Mr. 26 Jose Negrete (T.L. 's friend) and I were at the meeting. However, I arrived at the meeting late. When I arrived Ms. Grande was reviewing the teacher input with T.L.</p> <p>9. [Objection 1: Even with the teacher input there was not enough information to determine if a special education assessment was appropriate at the time.] A.E. had only joined Haydock a few weeks prior in January 2019 and he had not received any schooling the year before. Therefore, Ms. Grande explained</p>	<p>1. Improper opinion testimony. Declarant has not been qualified as an expert in disability assessment determinations or requirements, clinically or legally. Nor has she provided sufficient foundation for the opinion testimony offered F.R.E. 602, 701, 702</p>	<p>Overruled</p>
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1 to T.L. that it would be helpful to
2 gather more data regarding
3 A.E.'s academic performance,
4 behavioral concerns, and social
interactions.

5 10. Ms. Grande then asked T.L.
6 if she would still like to proceed
7 with a special education
8 assessment of A.E. at that time
9 or if she wanted to wait until the
10 District had an opportunity to
gather more data. T.L. responded
with "That's fine. We can wait."

11 11. A Student Success Team
12 plan was completed so that the
13 District could gather more data
14 and reconvene in April 2019 to
15 determine if a special education
assessment was necessary.

16 12. In my opinion, I believe that
17 T.L. understood that she had a
18 right to proceed with the special
19 education assessment at that time
20 and she was not required to wait.
21 In my opinion, T.L. understood
22 why more information was
23 needed and she was not forced
into revoking her request for a
special education assessment.

24 I declare under penalty of perjury
25 under the laws of the United
26 States that the foregoing is true
and correct.

27 Executed this 16th day of May
28 2019, in Oxnard, California.

Declaration of Mayra Velasquez Dkt. 252-14	Objection	Ruling
<p>I, Mayra Velasquez, declare as follows:</p> <p>1. I have personal knowledge of the facts set forth in this declaration and, if called as a witness, I could and would testify competently about these facts.</p> <p>2. I am the Attendance Technician at Drifill Elementary School (“Drifill”) in the Oxnard School District (“OSD” or the “District”).</p> <p>3. I am familiar with the process for handling the receipt of faxes at Drifill. There is one copier/scanner/fax machine (the “machine”) at this school site, located in at the main office. My work station is located at the main office, so I am one of the people that most commonly uses and has access to the machine. However, all teachers, administrators, office staff, and classroom staff also have access to and use the machine. There is no particular staff person designated to receive faxes. [Objection 1: But when a fax comes in, the person who first recognizes the fax will deliver the fax to the intended</p>	<p>1. Plaintiffs object that this statement lacks foundation and personal knowledge. She has not witnessed all faxes being</p>	<p>Overruled</p>

1	recipient, who is typically identified on the fax.]	received and delivered. F.R.E. 602.	
2			
3	4. I am familiar with and have		
4	previously received written		
5	requests for assessment. I also		
6	attended District "Child Find"		
7	training on February 20, 2018.		
8	When I receive a request for		
9	assessment of a student, usually		
10	in person or via fax, I		
11	immediately scan a copy of the		
12	request to the school		
13	psychologist and principal or		
14	make a copy of the request and		
15	provide it to them.		
16			
17	5. I understand that the mother of		
18	student D.C. asserts that she sent		
19	a fax request for an assessment		
20	on November 29, 2018. I was		
21	working in my current position		
22	at that time, but I have no		
23	knowledge of any such request. I		
24	have never seen or received a fax		
25	request, or any request, for D.C.		
26	to be assessed for a disability.		
27			
28	6. I do not maintain any log of		
	faxes received by Driffill at fax		
	number (805) 487-7723, the only		
	fax number for our school site.		
	Nor am I aware of any fax log		
	maintained any other Driffill		
	staff person. I am aware of the		
	fax log function on the fax		
	machine that causes a fax log to		
	be automatically generated.		
	However, fax logs are not		
	routinely generated at Driffill.		

1 Such fax logs only provide
2 information about faxes sent and
3 received within approximately
4 30 days from when they are
5 generated. I am not aware of any
6 fax log which contains
7 information about faxes sent or
8 received on November 29, 2018.

9 I declare under penalty of perjury
10 under the laws of the United
11 States that the foregoing is true
12 and correct.

13 Executed this 15th day of May
14 2019, in Oxnard, California.

15 **Declaration of Dr. Naomi**
16 **Cortez**
17 **(Dkt. 252-15)**

18 **Objection**

19 **Ruling**

20 I, Dr. Naomi Cortez, declare as
21 follows:

22 1. I have personal knowledge of
23 the facts set forth in this
24 declaration and, if called as a
25 witness, I could and would
26 testify competently about these
27 facts.

28 2. I am an Assistant Principal at
Fremont Academy of
Environmental Science and
Innovative Design ("Fremont")
in the Oxnard School District
("OSD" or the "District"). I have
worked in this position for the
2018-2019 school year. Prior to
my current assignment, I was an

1 Assistant Principal at Cesar
2 Chavez Elementary School
3 ("Chavez").

4 3. I have a Multiple Subject
5 Teaching credential and an
6 Administrative credential with
7 the State of California. As part of
8 the Multiple Subject
9 credentialing program and the
10 Administrative credentialing
11 program I completed, I attended
12 courses related to Special
13 Education. I have also attended
14 professional development
15 meetings and other trainings
16 which have dealt with
17 identifying students with
18 disabilities and special needs.
19 Throughout my career as an
20 educator, I have interacted with
21 numerous students with IEPs.
22 Additionally, I have received
23 training from the District's
24 Special Education Department
25 regarding Child Find.

26 4. I have known M.L. since he
27 joined Chavez at the end of his
28 5th grade year. I recall asking
M.L. 's father why M.L. did not
complete the "newcomer" ELD
class when he first enrolled at the
District. M.L. 's father explained
that he disenrolled M.L. from the
"newcomer" ELD program
because he feared his son was
being bullied. M.L. was never re-
enrolled in the "newcomer" ELD
program.

1 5. I attended M.L.'s initial
2 February 2018 SST meeting. The
3 primary concern at the time was
4 M.L. 'slow academics. The team
5 decided to use the Basic Phonics
6 Skill Test, an informal
7 assessment tool for language.
8 The test would be offered in
9 Spanish, so that the team could
10 determine whether M.L. had a
11 language skill deficiency
12 irrespective of his English
13 language proficiency.

14 **6. [Objection 1: With the**
15 **information I had at the time**
16 **of the February 2018 SST**
17 **meeting, I did not suspect that**
18 **M.L. had a disability. I**
19 **believed that his academic**
20 **challenges were directly**
21 **related to his English language**
22 **acquisition.]**

23 I declare under penalty of perjury
24 under the laws of the United
25 States that the foregoing is true
26 and correct.

27 Executed this 16th day of May
28 2019, in Oxnard, California.

1. Plaintiffs object to the extent
the testimony is offered to assert
any opinion regarding the lack
of a qualifying disability or
origin/basis of academic
challenges it is improper
opinion testimony. Declarant
has not been qualified as an
expert in disability assessment
determinations or English
language acquisition. Nor has
she provided sufficient
foundation for the opinion
testimony offered. F.R.E. 602,
701, 702.

Overruled

1	Declaration of Philip Bullard (Dkt. 252-17)	Objection	Ruling
2	I, Philip Bullard, declare as		
3	follows:		
4	1. I have personal knowledge of		
5	the facts set forth in this		
6	declaration and, if called as a		
7	witness, I could and would		
8	testify competently about these		
	facts.		
9	2. I am a teacher at Driffill		
10	Elementary School (“Driffill”) in		
11	the Oxnard School District		
12	(“OSD” or the “District), where I		
13	teach Science, Physical		
14	Education (“P.E.”), and		
15	Advisory. I have worked in this		
16	position for the last three (3)		
17	years but have worked as an		
18	educator, either in a teaching or		
19	administrative capacity, for a		
20	total of thirteen (13) years.		
21	3. I have a Single-Subject		
22	Teaching credential (Life		
23	Science) and an		
24	Administrative credential with		
25	the State of California. As part of		
26	the Multiple Subject		
27	credentialing program and the		
28	Administrative credentialing		
	programs I completed, I		
	attended courses related to		
	Special Education. I have also		
	attended professional		
	development meetings and other		
	trainings which have dealt with		
	identifying students		

1 with disabilities and special
2 needs, including the District's
3 February 20, 2018 "Child
4 Find" Training. Throughout my
5 career as an educator, I have
6 interacted with and taught
7 numerous students with IEPs.

8 4. Student D.C. is currently a
9 student in my advisory and
10 science classes. D.C.
11 is also a student enrolled in
12 another teacher's P.E. class,
13 which I sometimes co-teach
14 when the two classes combine
15 for joint activities. I have also
16 served as D.C.'s designated
17 advisor for this school year—her
18 first at Driffill. In these roles, I
19 have observed and
20 monitored D.C.'s academics,
21 behavior, and social/peer
22 relations.

23 5. From the Fall of 2018 to the
24 present, D.C. has been under a
25 Behavior Contract, which
26 requires her to obtain comment
27 about her behavior from all of
28 her teachers on a regular basis.
Immediately after the Behavior
Contract was put in place,
D.C.'s behavior improved
significantly for several months.
D.C. is sometimes noncompliant
or has an attitude, but this is
typical adolescent behavior. As
is common in the middle school
setting, if D.C. has a social
problem with another student,

1 she will stand up for herself.
2 Nonetheless, there is nothing
3 about D.C. 's behavior that would
4 lead me to believe that she has or
5 may have a disability.

6 6. Based on D.C. 's classroom
7 performance and my
8 observation, D.C. expresses
9 herself very well verbally and in
10 writing and is highly capable
11 academically. D.C. can
12 understand and retain material,
13 but she lacks follow-through
14 with turning in work, which has
15 affected her grades. Recently,
16 D.C. has made concerted efforts
17 to make up missed work because
18 she is motivated to graduate.

19 **[Objection 1: As a result of
20 these efforts, I expect that her
21 grades will improve before the
22 end of the school year.]**

23 I declare under penalty of perjury
24 under the laws of the United
25 States that the foregoing is true
26 and correct.

27 Executed this 16th day of May
28 2019, in Oxnard, California.

1. Plaintiff objects on the basis
that this is improper speculation
and lacks foundation. F.R.E.
602

Overruled

Declaration of Patrick Sayer (Dkt. 252-18)	Objection	Ruling
I, Patrick Sayer, declare as follows: 1. I have personal knowledge of the facts set forth in this declaration and, if called as a		

1 witness, I could and would
2 testify competently about these
3 facts.

4 2. I am a teacher at Haydock
5 Academy of Arts and Sciences
6 ("Haydock") in the Oxnard
7 School District ("OSD" or the
8 "District"), where I teach
9 Physical Education. I have
10 worked in this position for the
11 last one and a half years but have
12 worked as an educator, either in
13 a teaching or administrative
14 capacity, for a total of four and a
15 half years.

16 3. I have a Single Subject
17 Teaching credential with the
18 State of California with Physical
19 Education authorization. As part
20 of the Single Subject
21 credentialing program I
22 completed, I attended courses
23 related to Special Education.
24 Additionally, I received training
25 from the District's Special
26 Education Department regarding
27 Child Find and attended a
28 training on February 20, 2018.
Throughout my career as an
educator, I have interacted with
and taught numerous students
with IEPs.

4. I have also attended
professional development
meetings and trainings which
have dealt with identifying
students with disabilities and

1	special needs. I understand that if		
2	I suspect that a student has a		
3	disability, it is my duty to refer		
4	the student for special education		
	assessment.		
5	5. Student A.E. is currently a		
6	student in my physical education		
7	class. As his teacher, I have		
8	observed and monitored A.E. 's		
9	class performance, behavior, and		
	social/peer relations.		
10	6. Since A.E. first joined my		
11	classes in January 2019 he has		
12	performed really well in physical		
13	education. He follows directions		
14	and participates in class. I have		
15	not had any behavioral issues		
16	with A.E. His grade has		
	remained an "A" in physical		
	education.		
17	7. [Objection 1: Based on	1. Plaintiffs object on the basis	Overruled
18	A.E.'s classroom performance	that this testimony is improper	
19	and my observation as his	opinion testimony. The witness	
20	teacher, I do not suspect that	has not provided sufficient	
21	A.E. has a disability, nor have I	foundation for the opinion	
22	noticed any "red flags" that	offered. She has not been	
23	indicate that A.E. has special	qualified as an expert in	
24	needs. My experience is that	disability assessments or what	
25	A.E. is capable to perform at	constitute "red flags" for	
	grade level, interacts	disability, clinically or legally.	
	appropriately with peers and	F.R.E. 602, 701, 702.	
	adults, and is well behaved.]		
26	8. I have never met A.E's mother,		
27	T.L. I have never called T.L. to		
28	discuss A.E's grade and		
	performance in my class. I have		

1 never told T.L. that she should
2 request a special education
3 evaluation for A.E. because I do
4 not suspect A.E. to have a
5 disability or to otherwise need
6 special education services.

7 I declare under penalty of perjury
8 under the laws of the United
9 States that the foregoing is true
10 and correct.

11 Executed this 16th day of May
12 2019, in Oxnard, California.

13 14 15 16 17 18 19 20	Declaration of Robert Manwaring (Dkt. 252-20)	Objection	Ruling
	See prior objections at Dkt. 180 and Court's Order at Dkt. 205. Plaintiffs restate their objections to Manwaring's Declaration, which have already been ruled on by the Court, and need not be ruled on again.	See prior objections at Dkt. 180 and Court's Order at Dkt. 205. Plaintiffs restate their objections to Manwaring's Declaration, which have already been ruled on by the Court, and need not be ruled on again.	<i>Prior rulings remain in place.</i>

22 23 24 25 26 27 28	Declaration of Rosa Monroy (Dkt. 252-21)	Objection	Ruling
	I, Rosa Monroy, declare as follows: 1. I have personal knowledge of the facts set forth in this declaration and, if called as a witness, I could and would		

1 testify competently about these
2 facts.

3 2. I am a teacher at Driffill
4 Elementary School ("Driffill") in
5 the Oxnard School District
6 ("OSD" or the "District"), where I
7 have taught 8th grade
8 Mathematics for the last two (2)
9 years. Before my current
10 position, I taught Spanish,
11 Physical Education, Science, and
12 Math to elementary school
13 students at a private school for
14 five (5) years.

15 3. I have a Single Subject (Math)
16 Teaching credential with the
17 State of California. As part of my
18 credentialing program, I attended
19 courses related to Special
20 Education. I have attended
21 professional development
22 meetings and a District "Child
23 Find" training held on February
24 20, 2018, which dealt with
25 identifying students with
26 disabilities and special needs.
27 Throughout my career as an
28 educator, I have interacted with
and taught numerous students
with IEPs and attended many
IEP meetings.

4. Student D.C. is currently a
student in my math class. When
D.C. first transferred to my class
I was very impressed by her
math knowledge and it was
apparent that she had a good

1	math background. [Objection 1: D.C. is academically capable and has the ability to retain information. However, D.C. currently has a failing grade in my class because she does not complete assigned work. Recently, she has been trying to improve her grade by coming in during lunch to make-up work. D.C. can be defiant, but her behavior does not rise to a level that I would consider atypical for her age group. Overall, D.C. is able to sustain good behavior and I do not suspect that D.C. has or may have a disability.]	1. Plaintiffs object that this is improper opinion testimony. Declarant has not been qualified as an expert in disability assessment determinations or requirements, clinically or legally. Nor has she provided sufficient foundation for the opinion testimony offered F.R.E. 602, 701, 702	Overruled
2		Declarant has not been qualified as an expert in typical behavior for children of DC.'s age group.	
3			
4			
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14	I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.		
15			
16			
17			
18	Executed this 17th day of May 2019, in Oxnard, California.		
19			
20	Declaration of Tiffany Grande (Dkt. 252-23)	Objection	Ruling
21	I, Tiffany Grande, declare as follows:		
22			
23			
24	1. I have personal knowledge of the facts set forth in this declaration and, if called as a witness, I could and would testify competently about these facts.		
25			
26			
27			
28			

1 2. I am a School Psychologist at
2 Haydock Academy of Arts and
3 Sciences ("Haydock") in the
4 Oxnard School District ("OSD"
5 or the "District"). In my capacity
6 as a School Psychologist, I
7 respond to requests for special
8 education assessments and
9 administer and interpret the
10 special education assessments. I
11 have worked in this position
12 at Haydock for the last three (3)
13 years but have worked as school
14 psychologist in this and
15 other school districts, for a total
16 of fourteen (14) years.

17 3. I received my Master's degree
18 in Education with an emphasis in
19 Counseling and my Educational
20 Specialist degree in School
21 Psychology from San Diego
22 State University. As part of my
23 education I completed and
24 attended courses related to
25 Special Education. Additionally,
26 I received training from the
27 District's Special Education
28 Department regarding Child Find
on February 20, 2018.

4. Throughout my career as a
School Psychologist, I have
responded to numerous requests
for special education assessments
from parents. I am well aware of
the legal timelines in which these
requests have to be responded to.

1	5. On Monday, February 25,		
2	2019, I received a written request		
3	for a special education		
4	assessment of A.E. from his		
5	mother T.L. in my mailbox. I		
6	emailed the school Outreach		
7	Coordinator and requested that		
8	she set up a meeting with T.L. so		
9	that the District could respond to		
10	her request.		
11			
12	6. The meeting was scheduled		
13	and held on March 6, 2019,		
14	which was within the fifteen (15)		
15	day legal deadline by which the		
16	District had to respond to the		
17	request. Mr. Magana, the school		
18	counselor, Ms. Monica Garcia-		
19	Napoles, T.L., Mr. Jose Negrete		
20	(a family friend), and I were at		
21	the meeting.		
22			
23	7. At the start of the meeting, I		
24	explained to T.L. that we were		
25	meeting to respond to her written		
26	request for a special education		
27	assessment of A.E. I then		
28	reviewed the teacher input that		
	was gathered prior the meeting,		
	by Ms. Monica Garcia-Napoles.		
	[Objection 1: However, even	1. Plaintiff objects on the basis	Overruled
	with the teacher input there	that this is improper opinion	
	was not enough information to	testimony. Declarant has not	
	determine if a special	been qualified as an expert in	
	education assessment was	disability assessment	
	appropriate at the time.] A.E.	determinations or requirements,	
	had only joined Haydock a few	clinically or legally. She has not	
	weeks prior in January 2019 and	offered sufficient foundation for	
	he had not attended school for	the opinion testimony offered.	
	the past year. Therefore, I	F.R.E. 602, 701, 702	

1 explained to T.L. that it would be
2 helpful to gather more data
3 regarding A.E. 's academic
4 performance, behavioral
concerns, and social interactions.

5 8. I then asked T.L. if she would
6 still like to proceed with a
7 special education assessment of
8 A.E. at that time or if she wanted
9 to wait until the District had an
10 opportunity to gather more data.
11 T.L. asked for our input. The
12 team shared that it would be
13 helpful to gather more data but
14 ultimately the choice was hers.
15 T.L. then said that the District
16 could gather more data and
17 agreed to hold off on the special
18 education evaluation of A.E.

19 9. A Student Success Team plan
20 was completed so that the
21 District could gather more data
22 and reconvene on April 29, 2019
23 and 9:15 a.m. to determine if a
24 special education assessment was
25 necessary.

26 10. Since a parent has a right to
27 request a special education
28 assessment of their child, I began
drafting and taking notes of the
information that T.L. provided
because at the start of the
meeting I assumed an assessment
plan would be offered. However,
because T.L. decided to wait
before proceeding with a special
education assessment, we

1 withheld offering an assessment
2 plan at that time.

3 **11. [Objection 2: In my**
4 **opinion, I believe that T.L.**
5 **understood that she had a right**
6 **to proceed with the special**
7 **education assessment at that**
8 **time and she was not required**
9 **to wait.**

10 I declare under penalty of perjury
11 under the laws of the United
12 States that the foregoing is true
13 and correct.

14 Executed this 16th day of May
15 2019, in Oxnard, California.

2. Plaintiffs object on the basis
that declarant lacks personal
knowledge and foundation to
the extent this testimony is
being offered to assert the
understanding of T.L.

F.R.E. 602. Improper opinion
testimony. F.R.E. 701, 702

Overruled

15 **Declaration of Teresa Silvas**
16 **(Dkt. 252-24)**

Objection

Ruling

17 I, Teresa Silvas, declare as
18 follows:

19 1. I have personal knowledge of
20 the facts set forth in this
21 declaration and, if called as a
22 witness, I could and would
23 testify competently about these
24 facts.

25 2. I am a School Counselor at
26 Cesar Chavez Elementary School
27 (“Chavez”) in the Oxnard School
28 District (“OSD” or the “District”).
In my position, I am responsible
for interpreting the abilities and

1 needs of individual pupils and
2 counseling students and
3 parents regarding the pupil's
school experience.

4 3. M.L. first came to my
5 attention because he was a new
6 student that joined us at the end
7 of his 5th grade year in May
2017.

8 4. I recall several attempts were
9 made by the Outreach
10 Coordinator ("ORC"),
11 Yolanda Gonzales, to schedule
12 Student Success Team ("SST")
13 meetings, but there was difficulty
14 and delay in scheduling those
15 meetings because Parent could
not be reached, and Parent input
was needed.

16 5. The February 20, 2018 SST
17 meeting was finally held for
18 M.L. without the
19 Parents' participation. At the
20 initial SST, the team typically
21 gathers information
22 regarding what teacher supports
23 were already attempted and what
24 concerns there may be
25 about a student. Parent input is
26 very important in order to get a
27 full picture about a
28 student's abilities and needs,
particularly in the Oxnard
community, where 49.8% of
students are designated as
"English Language Learners." I
did not have any personal

<p>1 experience with M.L. in the 2 classroom and I was not his 3 teacher; however, I understand 4 that the main concern at the 5 February 20, 2018 SST was 6 M.L.'s reading ability and his 7 prior academic history. It was 8 important to obtain input from 9 parent at that meeting; 10 however, Parent did not attend. 11 [Objection 1: At the time of the 12 February 20, 2018 SST, I did 13 not suspect that M.L. had a 14 disability. I believed that 15 M.L.'s academic challenges 16 were directly related to his 17 English language acquisition.]</p> <p>18 6. A follow-up SST meeting was 19 scheduled on May 22, 2018, but 20 Parents did not attend, so the 21 meeting was ultimately canceled.</p> <p>22 7. In September 2018, I made 23 two visits to the family home 24 along with the ORC. At the 25 second home visit on September 26 24, 2018, we obtained Parents' 27 new telephone number from the 28 residents living at M.L.'s last known address at that time. An SST meeting was held on September 27, 2018 with Parent in attendance.</p>	<p>1. To the extent the testimony is offered to assert any opinion regarding the lack of a qualifying disability or origin/basis for academic challenges, it is improper opinion testimony. Declarant has not been qualified as an expert in disability assessment determinations or English language acquisition. There is insufficient foundation for the opinion offered. F.R.E. 602, 701, 702</p>	<p>Overruled</p>
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1 I declare under penalty of perjury
2 under the laws of the United
3 States that the foregoing is true
and correct.

4 Executed this 16th day of May
5 2019, in Oxnard, California.

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7
8 IT IS SO ORDERED.

9
10 Dated: July 30, 2019



11 _____
12 JOHN A. KRONSTADT
13 UNITED STATES DISTRICT JUDGE
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